IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION

No. 4:11-CR-71-D No. 4:15-CV-80-D

RODNEY LUCAS,)	
Petitioner,)	
v.)	ORDER
UNITED STATES OF AMERICA)	
Respondent.)	

Rodney Lucas ("Lucas") has already filed and lost a motion under 28 U.S.C. § 2255 attacking his conviction and sentence. See [D.E. 72]. The United States Court of Appeals for the Fourth Circuit has not authorized Lucas to file a second section 2255 motion.

Lucas's latest motions continue to attack his conviction and sentence. See [D.E. 75, 76, 77, 78]. The court construes Lucas's motions at D.E. 76 and 77 as successive under section 2255. This court lacks subject-matter jurisdiction to consider those motions. See, e.g., 28 U.S.C. § 2255(h); Burton v. Stewart, 549 U.S. 147, 152–53 (2007) (per curiam); In re Williams, 364 F.3d 235, 238 (4th Cir. 2004); United States v. Winestock, 340 F.3d 200, 205 (4th Cir. 2003). Thus, the court dismisses those motions. Lucas's motion for appointment of counsel [D.E. 78] and for DNA testing [D.E. 75] are baseless and are denied. See, e.g., [D.E. 81] 4–5.

In sum, the court DISMISSES Lucas's motions attacking his conviction and sentence [D.E. 76, 77] for lack of subject-matter jurisdiction as successive and DENIES a certificate of appealability. See 28 U.S.C. § 2253(c); Miller-El v. Cockrell, 537 U.S. 322, 336–38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000). The court DENIES Lucas's other two motions [D.E. 75, 78] as baseless.

SO ORDERED. This 14 day of August 2017.

JAMES C. DEVER III
Chief United States District Judge